

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

ROBERT BAKER

PLAINTIFF

VERSUS

CAUSE NO. 2016-00227

JACKSON COUNTY SHERIFF'S DEPARTMENT;
JACKSON COUNTY, MISSISSIPPI;
AND JOHN OR JANE DOES 1 THROUGH 10

FILED

DEC 05 2016

DEFENDANTS

RANDY CARNEY, CLERK

COMPLAINT

D.C.

COMES NOW the Plaintiff, ROBERT BAKER, and files this his Complaint against the Defendants herein, JACKSON COUNTY SHERIFF'S DEPARTMENT, JACKSON COUNTY, MISSISSIPPI, and JOHN OR JANE DOES 1 THROUGH 10, and for cause would respectfully show as follows:

1. Plaintiff, ROBERT BAKER, is an adult resident citizen of Harrison County, Mississippi.

2. Defendant, JACKSON COUNTY SHERIFF'S DEPARTMENT, is a political subdivision of the State of Mississippi and is the entity responsible for the oversight, regulation, and/or control of the Sheriff's Department in Jackson County, Mississippi, and its personnel. This Defendant may be served with process in the time and manner provided by law by service pursuant to Miss. Code Ann. § 11-45-3 by serving Jim Hood, the Attorney General of Mississippi, Mississippi Attorney General's Office, Walter Siller Building, 550 High Street, Suite 1200, Jackson, Mississippi 39201; Sheriff Mike Ezell at 3104 Magnolia Street, Pascagoula, Mississippi 39567; and also by service upon Melton Harris, President of Jackson County Board of Supervisors, at 3104 Magnolia Street in Pascagoula, Mississippi, or 2500 Criswell Avenue, Pascagoula, Mississippi 39567, or wherever they may be found.



3. Defendant, JACKSON COUNTY, MISSISSIPPI, is a political subdivision within the State of Mississippi, with the ability to sue and be sued, and which at all times relevant hereto employed Jacob Chavis. Defendant, Jackson County, Mississippi, may be served with process in the time and manner provided by law.

4. Defendants, JOHN OR JANES DOES 1 THROUGH 10, are individuals or entities affiliated with the Defendants and/or have acted in concert with the Defendants, and whose identities are currently unknown. All allegations and claims asserted herein against the Defendants are incorporated herein by reference against John or Jane Does 1 through 10. Said John or Jane Does, when their identities are known, will be identified by name and joined in this action, if necessary, pursuant to the Mississippi Rules of Civil Procedure.

5. This Court has jurisdiction over this action in accordance with, and pursuant to Mississippi Code Annotated Section 11-46-1 and the laws of the State of Mississippi.

6. Venue is proper in the Circuit Court of Jackson County, Mississippi, pursuant to Mississippi Code Annotated Section 11-11-3, as most, if not all, of the acts, omissions, and/or matters in controversy giving rise to this cause of action occurred and/or accrued in Jackson County, Mississippi.

7. Plaintiff would show that pursuant to Mississippi Code Annotated Section 11-46-11, a Notice of Claim letter was mailed, via certified United States mail, upon the Defendants on or about August 9, 2016. Copies of the Notice of Claim and Certified Mail Receipts are attached hereto and incorporated herein as Exhibits "A" and "B," respectively.

8. On or about August 19, 2015, Plaintiff was in his home in Jackson County, Mississippi, and under distress. Plaintiff called 911 and asked for help getting some people out of his house. The Defendants arrived at Plaintiff's house in response to the 911 call. Plaintiff

was in the garage/shop attached to his house. Plaintiff had a gun and was distraught about certain individuals in his house that he could not get to leave.

9. Plaintiff and his daughter heard a gunshot outside, and Plaintiff put his gun down so he could open the garage door.

10. At that same time, Plaintiff's daughter left the garage/shop and walked through the house to the front door, where she let Deputy Jacob Chavis enter the front door.

11. Deputy Chavis entered the front door of Plaintiff's house with his gun drawn.

12. Deputy Chavis entered the kitchen immediately adjacent to the garage/shop and immediately fired eight or nine shots into the garage/shop, striking the Plaintiff as he was opening the garage door.

13. Plaintiff was subsequently transported to the Ocean Springs Hospital where he was treated for his injuries as a result of being shot multiple times.

14. Plaintiff would show that based on information and belief, the Defendants had policies and procedures in place about how, when, and where to use deadly force.

15. Plaintiff would aver that it is a public entity's duty to inform, train, and supervise its employees in the proper ways in which its employees may use deadly force, which is not discretionary, it is a ministerial and/or mandatory duty that is required by Mississippi Law.

16. Plaintiff would aver that the Defendants violated their duties owed to the Plaintiff as a result of their failure to properly inform, train, and supervise their employee as required by Mississippi Law.

17. The Plaintiff would aver that during this entire period of time the Defendants' employees, knew or should have known that the Plaintiff was asking for help from the Sheriff Department employees and did not pose an immediate danger to himself or others, and still, the

Defendants, by and through their agents, employees or representatives, entered Plaintiff's home and shot him in his garage/shop.

18. The Defendants, failed to provide adequate and competent training and/or supervision to agents, employees, or representatives of the Defendants working in the Jackson County Sheriff's Department. The Defendants were tasked with the non-delegable duty and responsibility of how to use deadly force in their official policies, procedures, practices, guidelines, and/or customs that were to be carried out by the Jackson County Sheriff's Department by the employees working there.

19. The Defendant, Jackson County Sheriff's Department, failed to properly train its employees to ensure that citizens such as the Plaintiff were safe and secure while on their own property, and their failure to do so created an unreasonable danger to the Plaintiff herein.

20. After the Plaintiff named herein was viciously and brutally shot at eight or nine times by a Jackson County Sheriff's Department and suffered multiple gunshot wounds, while standing in his own property, the Defendant, Jackson County Sheriff's Department, began its own investigation into the matter.

21. At all times, the individuals working at the Jackson County Sheriff's Department were employees and/or agents of Defendants, Jackson County Sheriff's Department and Jackson County, Mississippi, and said employees were working within the course and scope of their employment for the Defendants.

22. As a direct and proximate consequence of the acts or failure to inform, train, and supervise, the Defendants are jointly and severally liable to the Plaintiff for the acts of shooting the Plaintiff named herein. Thus, Plaintiff is entitled to a money judgment against the

Defendants who engaged in or contributed to or otherwise facilitated through their acts of omission or commission the illegal acts against the Plaintiff named herein.

23. The Defendants had a duty to the Plaintiff to properly train and supervise their employees to ensure the reasonable safety and welfare of the people they deal with, including the Plaintiff herein, and to at a minimum, ensure that they are not subjected to assault, battery, or other crimes against their person while they are on their own property.

24. As a direct and proximate consequence of the Defendants failure to properly train and supervise their employees, the Plaintiff suffered severe physical, mental and emotional damage, and past, present and future medical damages and medical treatment, resulting from the shooting suffered by the Plaintiff while in his own home on his own property, without just cause to do so, and the Defendants acts and omissions were the proximate cause of the Plaintiff's injuries and damages.

25. The Defendants failed to provide reasonable and necessary policies and/or procedures to ensure that the Plaintiff in question was safe from his employees while on duty. The conduct of the Defendants was reckless, careless, and negligent, and the Defendants knew, or should have known, that said conduct could result in the injuries and damages complained of herein. The Defendants' conduct constitutes negligence, negligence per se and/or gross negligence.

26. The Defendants, Jackson County, Mississippi, and the Jackson County Sheriff's Department, had a duty to act as reasonable, prudent Sheriff's Department and like entities, and to take reasonable and necessary precautions to ensure the safety and welfare of the public and to insure individuals that work for them do not shoot or commit heinous acts upon any individual without just cause.

27. The Defendants breached their duty of care by failing to provide for the safety and welfare of the public, and in particular the safety and welfare of the Plaintiff. The Defendants failures and breaches resulted in the Plaintiff suffering numerous gunshot wounds, including gunshot wounds to the torso, back, and groin. Each such injury constitutes a separate and independent tort under the Mississippi Tort Claims Act.

28. As a direct and proximate consequence of the Defendants' acts, omissions, and/or failure to act, the Plaintiff suffered severe pain and suffering, humiliation, mental and emotional distress, and past, present and future medical damages and medical treatment, and for which Plaintiff seeks a money judgment for actual and consequential damages of and from the Defendants.

29. The Plaintiff would aver that the employees or representatives of the Jackson County Sheriff's Department have a duty to follow the policies, procedures, and guidelines of the Jackson County Sheriff's Department, the law of the State of Mississippi and/or the laws of the United States of America.

30. The Plaintiff would aver that these duties are ministerial duties that create a mandatory duty on the part of the Defendants.

31. The Plaintiff would aver that Defendants' employee, Deputy Jacob Chavis, negligently, negligence per se, and grossly negligently violated the policies and procedures of the Jackson County Sheriff's Department, the Laws of the State of Mississippi, and the Laws of the United States of America in his use of force against the Plaintiff.

32. As the direct and proximate consequence of the Defendants' acts and/or omissions, the Plaintiff suffered and continues to suffer, severe pain and suffering as well as

mental and emotional distress, and past, present, and future medical damages and medical treatment for which he seeks a money judgment of and from the Defendants as follows, to-wit:

- (a) Past, present, and future physical, emotional pain and suffering;
- (b) Past, present, and future mental and emotional distress;
- (c) Past, present and future economic damages, including, but not limited to past, present, and future medical expenses;
- (d) Loss of enjoyment of life; and,
- (e) Other such damages as may be determined hereinafter.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Robert Baker, by and through his attorney of record, Douglas L. Tynes, Jr. prays that his Complaint be received and filed and the Court will award the Plaintiff damages for actual, compensatory, and punitive damages, along with all cost of Court as may be accrued herein, all attorney's fees allowable by law and any other damages allowed under the laws of the State of Mississippi including pre-judgment and post-judgment interest in an amount equal to the statutory limit of \$500,000.00, of and from the Defendants; and further grant the relief requested by the Plaintiff, ROBERT BAKER.

Further, your Plaintiff prays for general relief.

Respectfully submitted,
ROBERT BAKER

BY: 

DOUGLAS L. TYNES, JR. (MSB # 101921)
Attorney for Plaintiff

TYNES LAW FIRM, P.A.
P.O. Box 966
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August 9, 2016

Via Certified Mail/Return Receipt Requested

Josh Eldridge, Chancery Clerk
Jackson County, Mississippi
Post Office Box 998
Pascagoula, Mississippi 39568-0998

Via Certified Mail/Return Receipt Requested

Melton Harris
President of the Board of Supervisors of Jackson County, Mississippi
Post Office Box 998
Pascagoula, Mississippi 39568-0998

Via Certified Mail/Return Receipt Requested

Gary S. Evans, Board Attorney
Office of the Jackson County Board Attorney
Post Office Box 998
Pascagoula, MS 39568-0998

Via Certified Mail/Return Receipt Requested

Sheriff Mike Ezell
Jackson County Sheriff's Office
Post Office Box 998
Pascagoula, MS 39568-0998

Re: Notice of Tort Claim
Clamant: Robert A. Baker
Our File No. 16-10192

Dear Sheriff Ezell and Messrs. Eldridge, Harris, and Evans:

Our firm has been retained by Robert A. Baker in order to pursue a claim on his behalf against Sheriff Mike Ezell, Deputy Jacob Chavis, the Jackson County Sheriff's Department, and Jackson County, Mississippi, and I am submitting this Notice of Claim pursuant to § 11-46-11 of the Mississippi Code of 1972, as amended, for his personal injuries, damages and losses proximately resulting from an incident in which he was shot multiple times by a Deputy of the Jackson County Sheriff's Office, as set forth hereinafter:



August 9, 2016
Re: Robert Baker
Page 2 of 3

1. Short and plain statement of facts upon which the claim is based, including circumstances which brought about the injury.

On or about August 19, 2015, Robert Baker called the Jackson County Sheriff's Office to report a domestic situation at his home. Upon arrival, a Jackson County Deputy entered Mr. Baker's home and proceeded to the garage, where Mr. Baker was opening the garage door. A Deputy Sheriff, who upon information and belief was Jacob Chavis, shot Mr. Baker multiple times. Mr. Baker did not pose a threat or danger to Deputy Chavis, to any other member of the Jackson County Sheriff's Office or to any bystanders.

The actions complained of were in violation of the policies and procedures of the Jackson County Sheriff's Office. In addition, Jackson County Sheriff's Office and/or Sheriff Mike Ezell failed to adequately train their employees, including but not limited to Deputy Chavis.

Due to negligence *per se* and the negligent acts of Deputy Chavis and other employees of the Jackson County Sheriff's Office, Robert Baker sustained significant bodily injuries, including but not limited to gunshot wounds that required significant surgeries.

The actions of Deputy Jacob Chavis, Sheriff Mike Ezell, and other unknown deputies of the Jackson County Sheriff's Office, acting within the course and scope of their positions with the Jackson County Sheriff's Office, were the proximate and sole cause of the injuries, damages, and losses sustained by Robert Baker in this matter.

2. The extent of the injury

Robert Baker suffered severe physical injuries, medical expenses, past, present and future physical pain and suffering, and mental and emotional distress as a result of the subject incident.

3. The time and place the injury occurred

The incidents, as set forth above, occurred on or about August 19, 2015, and Mr. Baker's injuries are continuing to this day.

4. The names of all persons known to be involved.

The persons known to be involved in the above described incidents are Sheriff Mike Ezell and Deputy Jacob Chavis of the Jackson County Sheriff's Office, and Robert Baker. Mr. Baker's daughter, Britney Baker Schloss, was a witness at the scene.

5. Amount of money damages sought

Robert Baker seeks damages in this matter in the amount of \$500,000.00, or the maximum amount of insurance coverage available for this matter, whichever is greater.

August 9, 2016
Re: Robert Baker
Page 3 of 3

6. Residence of person making the claim at the time of the injury and at the time of filing the notice.

Robert Baker was a resident of Jackson County, Mississippi, at 9817 Scott Street, Latimer, Mississippi, at the time of the incident and injuries described above. Mr. Baker currently resides at 16324 Lamey Bridge Road, Biloxi, MS 39532.

Please accept this Notice of Claim pursuant § 11-46-11 of the Mississippi Code of 1972, as amended, of the Tort Claims Act, against Sheriff Mike Ezell, Deputy Jacob Chavis, and the Jackson County Sheriff's Department, and Jackson County, Mississippi. I hereby request that you advise me in writing of your decision with respect to this claim.

If you should have any questions regarding this matter, please let me know.

Sincerely,
TYNES LAW FIRM, P.A.



Douglas L. "Monte" Tynes, Jr.

DLT/Jr./kdk

cc: Robert A. Baker

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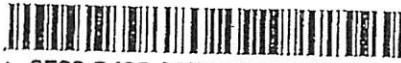
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<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Melton Harris, President Board of Supervisors, Jackson Co. PO Box 998 Pascagoula MS 39568-0998</p>  <p>9590 9403 0956 5223 8612 13</p> <p>2. Article Number (Transfer from service label)</p> <p>7015 0920 0001 0710 0968</p>	<p>A. Signature</p> <p>X <i>C. Monell</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p><i>C. Monell</i> C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053	
Domestic Return Receipt	

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Domestic Return Receipt